

LFC Requester:**Julia Downs****AGENCY BILL ANALYSIS
2016 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****LFC@NMLEGIS.GOV***and***DFA@STATE.NM.US***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:*Original ☒ Amendment ☐
Correction ☐ Substitute ☐**Date** January 13, 2016**Bill No:** HB 51-305**Sponsor:** Representative Miguel P. Garcia**Agency Code:** 305**Short****Person Writing** Susanne Roubidoux**Title:** Firearm Transfer Act**Phone:** 505.827.6693 **Email** sroubidoux@nmag.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

House Bill 91 aims to close the so-called "gun show loophole" by enacting a statute prohibiting the transfer of firearms at gun shows unless the transfer is conducted through a federal firearms licensee (FFL) and a background check is conducted on the transferee.

Section 2 of the bill prohibits the transfer of firearms in a sale between two persons at a gun show unless the FFL has performed a fire transfer background check on the prospective transferee.

Section 3 defines federal firearms licensee, firearm, gun show and transfer.

Section 4 prohibits a vendor at a gun show, who is not a federally licensed dealer or the holder of a valid New Mexico concealed carry license, from transferring a firearm at a gun show unless the transfer is conducted through a federal firearms licensee, and also requires that gun show organizers must have at least one federal firearms licenses at the show to conduct background checks for a fee not to exceed \$25.00 per transfer.

Section 5 exempts the transfer of antique or relic firearms from the background check requirement.

Section 6 provides that a transferor or federal firearms licensee who conducts the transfer or sale would be immune from civil liability if the required background check had been conducted, unless the transferor knows, or reasonably should know, that the transferee is likely to commit an unlawful act involving the firearm, or intends to deliver the firearm to a third person whom the transferor or federal firearms licensee knows, or reasonably should know, is prohibited from purchasing or receiving a firearm.

Section 7 provides that a person who transfers a firearm without obtaining the required background is guilty of a misdemeanor.

Section 8 provides that a person who fails to arrange for a federal firearms licensee to be on the premises of a gun show is guilty of a petty misdemeanor.

Section 9 provides that records maintained under the act would not be subject to the

Inspection of Public Records Act.

Section 10 requires that the administrative office of the courts (AOC) electronically transmit information from court proceedings relating to eligibility to receive or possess a firearm to the FBI national instant criminal background check system (NICS), and also information regarding each person who has been adjudicated as a mental defective or committed to a mental institution. A person may petition for restoration of his or her right to receive or possess firearms no more than once every two years, and if committed to a mental institution, only after the person has been discharged from the institution.

Section 11 repeals the act on the effective date of a federal law that requires background checks for firearms transfers between two persons who are not federal firearms licensees and who reside in the same state, whether or not the transfer takes place at a gun show, or the enactment of a federal law that expressly preempts the state from enforcing the act.

FISCAL IMPLICATIONS

The bill imposes new obligations on the AOC without providing funding to carry out these duties.

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

The AOC may require additional personnel in order to carry out the new data collection and transmitting duties imposed under the bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Section 10 of HB 51 is very similar to HB 91 – Background Check Reporting for Firearms. HB 91 imposes similar requirements on the AOC to transmit relevant court proceeding information to NICS.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A